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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,676	06/25/2003	Patricia C. Tibbenham	202-1573	3749

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EXAMINER

PAYNE, SHARON E

ART UNIT PAPER NUMBER

2875

DATE MAILED: 07/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/603,676	Applicant(s) TIBBENHAM ET AL.	
	Examiner Sharon E. Payne	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 21-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 21-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The finality of the previous action is withdrawn, and new rejections are listed below. The indicated allowability of claims 1-8, 14 and 21-25 is withdrawn due to newly discovered problems arising under 35 U.S.C. 112.

Claim Rejections - 35 USC § 112

2. Claims 1-14 and 21-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is indefinite for reciting the limitation "a first open informational images formed within the grasp portion such that no light emitting material is present within or underlies the first open informational image" in lines 6-7. The claim initially states that the grasp portion is formed of a light emitting material, and then the claim says that part of the grasp portion has no light emitting material. The claim has a conflict within itself, and it is indefinite under 35 USC 112.

Claims 2-8 are necessarily included due to their dependency.

Claim 9 is indefinite for reciting the limitation "said handle being formed of phosphorescent material. . . open informational images formed in said handle such that no phosphorescent material is present within and does not underlie the open informational images." Firstly, the handle cannot be fabricated of phosphorescent material alone to work; something has to be mixed in with it. Secondly, the claim has a conflict within itself because it first says that the handle is made of phosphorescent

material, and then it says that part of the handle has no phosphorescent material. The conflict within the claim renders the claim indefinite under 35 USC 112.

Claims 10-14 are necessarily included due to their dependency.

Claim 21 is indefinite for reciting the limitation "a first open informational image formed within the grasp portion and a second open informational image formed in the shaft portion such that no light emitting material is present within either the first open informational image or the second open informational image." The claim has a conflict within itself because it first says that the handle and the grasp portion are made of light emitting material, and then it says that part of the handle and the grasp portion has no light emitting material. The conflict within the claim renders the claim indefinite under 35 USC 112.

Claims 22-25 are necessarily including due to their dependency.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marrazzo et al. (U.S. Patent 6,349,984) in view of Roessler (U.S. Patent 6,369,395).

Regarding claim 9, Marrazzo et al. discloses open informational images formed in the handle (Fig. 4). Marrazzo et al. does not specifically disclose images such that no phosphorescent material is present within the images.

Roessler discloses images such that no phosphorescent material is present within or underlies the images (column 4, lines 1-2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the bare images of Roessler in the apparatus of Marrazzo et al. to make the image contrast with the background in a way that is more readable and more noticeable in the dark.

Concerning claim 10, Marrazzo et al. discloses the open informational image being formed in the grasp portion (Fig. 4).

Regarding claim 11, Marrazzo et al. does not disclose the open informational image in the shaft portion. Roessler discloses the open informational image being formed in the shaft portion (Fig. 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the configuration of Roessler in the apparatus of Marrazzo et al., because aesthetic design changes involve only routine skill in the art. See M.P.E.P. 2144.04.

Concerning claim 12, Marrazzo et al. does not disclose the shaft portion and the grasp portion connected to form a T-shape configuration.

Making the shaft portion and the grasp portion form a T-shaped configuration is considered to be an obvious variation. Since the shaft and grasp portions are well

Art Unit: 2875

known in the art, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make them form a "T" shape, since changes in shape are considered to involve only routine skill in the art. See M.P.E.P. 2144.04.

Regarding claim 13, Marrazzo et al. discloses the handle as an emergency trunk release handle operatively connected to a trunk lid latch mechanism locking the trunk lid to an automobile chassis (Fig. 1). Marrazzo et al. does not disclose the first open informational image forming an image of a vehicle with an open trunk with a caricature of a person jumping out of the open trunk, the second informational image forming an arrow pointing toward the grasp portion.

Making the informational images as described in the claim constitute an obvious variation. Since the informational images are well known in the art, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the informational images as described in the claim, since making the images any certain way constitutes aesthetic design changes that involve only routine skill in the art. See M.P.E.P. 2144.04.

Allowable Subject Matter

5. Claims 14 and 21-25 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

6. Claim 14 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter. The prior art fails to disclose a handle with the following features:

1) a shaft portion formed with an enlarged head portion having a deformable clip member formed therein as recited in claim 14; and

2) a shaft portion formed of a light emitting material and including a deformable clip member as recited in claim 21.

Response to Arguments

8. Applicant's arguments filed 25 February 2005 have been fully considered but they are not persuasive.

Applicant argues that Roessler does not teach open images formed with no light emitting material present within or underneath the image. While this may be true, claim 9 only requires that the image have no *phosphorescent* material. Roessler discloses an image with no phosphorescent material (column 4, lines 1-2). Therefore, claim 9 is not allowable.

Applicant further argues that Roessler does not teach the image being a hole in the handle, so claim 9 is allowable. To the contrary, nothing in claim 9 requires a hole. It just requires an image with no phosphorescent material. Roessler shows this (column 4, lines 1-2). Therefore, claim 9 is not allowable.

Arguments concerning claims 1 and 21 are rendered moot due to new grounds of rejection.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon E. Payne whose telephone number is (571) 272-2379. The examiner can normally be reached on regular business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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